



6351-01-P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent to Extend and Revise

Collections 3038-0023 and 3038-0072; Adoption of Revised Registration Form 7-R

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (“CFTC” or the “Commission”) is announcing an opportunity for public comment on the proposed extension and revision to the collection of certain information by the Commission. Under the Paperwork Reduction Act (“PRA”), Federal agencies are required to publish notice in the *Federal Register* concerning each proposed collection of information and to allow 60 days for public comment. The Commission revised its Form 7-R, the application form that entities that engage in certain specified business activities in the derivatives markets regulated by the Commission must use to register with the Commission. This notice solicits comments on the PRA implications of the revisions to Form 7-R, including comments that address the burdens associated with the modified information collection requirements of the revised Form 7-R.

DATES: Comments must be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: You may submit comments, identified by “OMB control numbers 3038-0023 and 3038-0072; Adoption of Revised Registration Form 7-R,” by any of the following methods:

- The Agency's web site, via its Comments Online process at <http://comments.cftc.gov/>. Follow the instructions for submitting comments through the web site.

- *Mail*: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

- *Hand Delivery/Courier*: Same as Mail above.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <http://www.cftc.gov>.

FOR FURTHER INFORMATION CONTACT: Matthew Kulkin, Director, 202-418-5213, mkulkin@cftc.gov; or Christopher Cummings, Special Counsel, 202-418-5445, ccummings@cftc.gov, Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501 *et seq.*, Federal agencies must obtain approval from the Office of Management and Budget ("OMB") for each collection of information they conduct or sponsor. "Collection of Information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the *Federal Register* concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is

publishing notice of the proposed revision to the collections of information listed below. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB number.

Titles: Registration Under the Commodity Exchange Act (OMB control number 3038-0023); Registration of Swap Dealers and Major Swap Participants (OMB control number 3038-0072). This is a request for extension and revision of these currently approved information collections.

Abstract: The Commission is revising its Form 7-R,¹ the application form that entities must use to register with the Commission as a commodity pool operator, commodity trading advisor, introducing broker, floor trader firm, retail foreign exchange dealer, futures commission merchant, leverage transaction merchant, swap dealer, or major swap participant. The collections of information related to Form 7-R were previously approved by OMB in accordance with the PRA and assigned OMB control numbers 3038-0023 and 3038-0072.

1. Form 7-R Revision

The revised Form 7-R contains several changes that, when considered together in aggregate, result in no net change to the existing information collection burden associated with Form 7-R. That burden varies by registration category and is currently 0.5 hour for futures commission merchants, 0.4 hour for introducing brokers, 0.4 hour for commodity pool operators, 0.4 hour for commodity trading advisors, 0.5 hour for floor trader firms,

¹ See, *Adoption of Revised Registration Form 7-R*, published in the *Federal Register* concurrently with this Notice that contains the revised version of Form 7-R, incorporating the changes discussed in this notice.

0.5 hour for retail foreign exchange dealers, 1 hour for swap dealers, and 1 hour for major swap participants. Discussion of the noteworthy changes follows.

In the section titled “Location of Business Records,” Form 7-R no longer separately requests that non-U.S. applicants identify the non-U.S. address where their business records are located. Instead, both U.S. and non-U.S. applicants are required to comply only with the existing requirements of Form 7-R to identify the location of their business records, which remain unchanged, and, for non-U.S. applicants, to indicate that such records will be produced for inspection at NFA’s offices, or at another physical location (not a post office box) within the U.S that the applicant identifies.

In the section titled “Holding Company Information,” the revised Form 7-R requests additional information about any entity that is a principal (as defined in Form 7-R) of the applicant. Form 7-R previously required applicants to identify by name any entity that was a principal of the applicant. The revised Form 7-R requires, for each entity that is identified as a principal of the applicant, then the applicant also must provide the entity’s Federal EIN and the location where the entity is incorporated, organized, or established. This additional information is intended to ensure accurate identification of the entity, given that firms sometimes can have the same or similar names.

In the section titled “Disciplinary Information – Regulatory Disclosures,” a new question was added to existing Question E. The new question directs the applicant to disclose whether it has ever been found to have failed to supervise another person’s activities under any investment-related statute or regulation. The new question is intended

to ensure complete disclosure of conduct that may result in a refusal or limitation on registration.

Items that pertain only to NFA membership have been removed from the form. In the past, Form 7-R functioned as a registration form for the Commission and NFA, and as an application for NFA membership. To the extent that questions ask for information that is necessary for NFA membership but is not necessary for registration, those questions have been removed from the form and will appear in a separate application for NFA membership. Specifically, revised Form 7-R no longer contains: a series of questions that inquire whether the applicant will transact in retail off-exchange foreign currency, swap, futures, or options; a question that is directed to applicants that are registering in multiple capacities that asks them to select the capacity in which they intend to vote on NFA membership matters; a question that asks applicants that are applying to register as a futures commission merchant to indicate whether the applicant has applied for membership at any United States commodity exchange; a question that asks an applicant that is applying for registration as a swap dealer or major swap participant to indicate whether the applicant is currently regulated by other U.S. regulators and to identify those regulators; and lastly, contact information for the applicant's Membership Contact, Accounting Contact, Assessment Fee Contact, Arbitration Contact, Compliance Contact, or Chief Compliance Officer Contact.

Additionally, NFA is simplifying the process by which it requests supplemental information and documentation regarding the applicant's criminal, regulatory or financial disclosures. The prior version of Form 7-R requested that applicants provide a written explanation of the facts and circumstances regarding any such disclosures. Applicants

were also separately requested to provide NFA with copies of pertinent documents associated with each disclosure. To consolidate and modernize this process, the revised Form 7-R allows applicants to complete electronically a separate “Disclosure Matter Page” for each matter, instance or event requiring disclosure and to simultaneously upload all pertinent documents associated with each disclosure. The Disclosure Matter Page provides applicants with an efficient and effective method of supplying the supplemental information and documentation that NFA requests in the normal course whenever an applicant responds affirmatively to any of the questions regarding criminal, regulatory or financial disclosures.

Lastly, revised Form 7-R contains several changes that do not alter the information collection burdens associated with Form 7-R. The revised Form 7-R incorporates new functionality throughout the form, consisting of hyperlinks to the text of the applicable provisions of the Commodity Exchange Act, Commission Regulations, and NFA Rules, whenever those authorities are referenced in the form. Additionally, revised Form 7-R incorporates certain clarifying language where appropriate. For example, the term “futures” has been replaced with the term “derivatives” in several locations to more accurately reflect the full scope of the Commission’s jurisdiction. Similarly, the reference to a failure to pay an award issued in a futures-related arbitration was replaced with the phrase failure to pay an award related to a CFTC-related product. The revised Form 7-R contains other changes to the language, formatting and organization of Form 7-R, all of which – individually and collectively – do not alter the information collection burdens associated with Form 7-R. The only changes to Form 7-R that could affect the information collection burdens associated with the form are those discussed above.

2. *Invitation to Comment*

With respect to the information collections discussed above, the CFTC invites comments on:

- Whether the proposed revision to the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed revision to the collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the further use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, further enhancing electronic submission of responses.

You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in Regulation 145.9.²

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from

² 17 CFR 145.9.

<http://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the information collection request will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: As explained above, the Commission believes that the revisions to Form 7-R will result in no net change to the information collection burdens associated with that Form under OMB control numbers 3038-0023 and 3038-0072.³

- The Commission estimates the burden of this collection of information under OMB control number 3038-0023 to be:

Respondents/Affected Entities: Users of Form 7-R that are futures commission merchants, retail foreign exchange dealers, introducing brokers, commodity trading advisors, commodity pool operators, floor trader firms, and leverage transaction merchants.

Estimated number of respondents: 78,055.

Estimated total annual burden on respondents: 7,735 hours.

Frequency of collection: Periodically.

There are no capital costs or operating and maintenance costs associated with this collection.

- The Commission estimates the burden of this collection of information under OMB control number 3038-0072 to be:

³ The revisions to Form 7-R do not change the existing estimated number of respondents under OMB control numbers 3038-0023 and 3038-0072. This estimate includes the collection burdens associated with Forms 7-R, 7-W, 8-R and 8-T, based on the historical practice of the Commission of addressing the burden estimates in aggregate, rather than separately on a form-by-form basis, for all of the registration forms: Forms 7-R, 7-W, 8-R, and 8-W.

Respondents/Affected Entities: Users of Form 7-R that are swap dealers and major swap participants. The following estimates are based on the average annual number of swap dealer and major swap participant Form 7-R filers for the past three years.

Estimated number of respondents: 772.

Estimated total annual burden on respondents: 672 hours.

Frequency of collection: Periodically.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: March 5, 2019.

Robert Sidman,

Deputy Secretary of the Commission.

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